IN THE HIGH COURT OF JUDICATURE AT BOMBAY

IN ITS INSOLVENCY JURISDICTION

PETITION NO.144 OF 2004

Re: Varsha Kirit Bhatia & anr.

..Debtors.

Ex-parte:

P.M. Dwarkadass ..Petitioning Creditor.

....

Mr. K.T. Kukreja for the Petitioning Creditor.

Mr. V.J. Shah for the Debtors.

....

CORAM : DR.D.Y.CHANDRACHUD, J.

15th February, 2005.

P.C. :

The Insolvency Petition was adjourned on 7th December, 2004 and 1st February, 2005 despite which no reply has been filed. The Insolvency Petition is based on a decree passed by this Court in Summary Suit 3012 of 2001 in the sum of Rs.7,33,013/- on 18th September, 2003 with future interest at the rate of 18% p.a. on the principal sum of Rs.5 lacs. An insolvency notice was issued

on 10th January, 2004. Though served, the debtors did not take out any proceedings for setting aside the insolvency notice. An oral statement has been made that an application has been filed today for setting aside the ex-parte decree. The ex-parte decree has held the field for over two years. In any event, if the decree is set aside, it would be open to the Judgment Debtors to move an application for annulment. At this stage, so long as the decree holds the field and there being no reply to the Petition, an order of adjudication is passed in terms of prayer clauses (a) and (b).